ARKANSAS SUPREME COURT

No. 06-396

NOT DESIGNATED FOR PUBLICATION	**Opinion Delivered** **October 26, 2006**
RANDY L. ANDERSON Appellant	*PRO SE* APPEAL FROM THE CIRCUIT COURT OF LINCOLN COUNTY, LCV 2006-6, HON. ROBERT HOLDEN WYATT, JR., JUDGE
v.	
STATE OF ARKANSAS Appellee	AFFIRMED

PER CURIAM

In 2001, Randy L. Anderson was convicted by a jury of capital murder and sentenced to death. On appeal, this court reversed and remanded for re-sentencing. *Anderson v. State*, 353 Ark. 384, 108 S.W.3d 592 (2003). On remand, appellant was sentenced to life in prison without parole. Subsequently, appellant filed in the trial court a petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. The trial court denied the petition and appellant filed an appeal in this court. We dismissed the appeal. *Anderson v. State*, CR 05-504 (Ark. January 12, 2006) (*per curiam*).

Appellant, who is in the custody of the Arkansas Department of Correction, then filed in the county where he was incarcerated a *pro se* petition for writ of *habeas corpus*. The State filed a motion to dismiss the petition, and the trial court granted the motion. Appellant, proceeding *pro se*, has lodged this appeal of the order dismissing the petition. On appeal, appellant argues the follow bases for relief: (1) the trial court refused to submit complete jury instructions regarding self-defense; (2) the prosecutor misstated the law and improperly shifted the burden of proof to appellant; (3) insufficient evidence supported a finding of statutory aggravating circumstances; (4) trial counsel

rendered ineffective assistance resulting in prejudice to appellant.

The principal issue in a *habeas corpus* proceeding is whether the petitioner is detained without lawful authority. Ark. Code Ann. § 16-112-103 (1987); *Fullerton v. McCord*, 339 Ark. 45, 2 S.W.3d 775 (1999). A writ of *habeas corpus* is proper when a judgment of conviction is invalid on its face or when a circuit court lacked jurisdiction over the cause. *Davis v. Reed*, 316 Ark. 575, 873 S.W.2d 524 (1994). Unless a petitioner can show that the trial court lacked jurisdiction or that the commitment was invalid on its face, there is no basis for a finding that a writ of *habeas corpus* should issue. *Friend v. Norris*, 364 Ark. 315, ___ S.W.3d ___ (December 1, 2005) (*per curiam*). The petitioner must plead either the facial invalidity or the lack of jurisdiction and make a "showing, by affidavit or other evidence, [of] probable cause to believe" he is illegally detained. Section 16-112-103(a). *See also Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991).

In the instant matter, appellant does not contend either that the conviction was invalid on its face or that the trial court lacked jurisdiction over the case. Instead, as to his first three claims, this court previously considered and rejected the same arguments in his direct appeal. A *habeas corpus* proceeding does not afford a prisoner an opportunity to retry his case. Further, a writ of *habeas corpus* will not be issued to correct errors or irregularities that occurred at trial. The remedy in such a case is direct appeal. *Meny v. Norris*, 340 Ark. 418, 13 S.W.3d 143 (2000) (*per curiam*); *Birchett v. State*, 303 Ark. 220, 795 S.W.2d 53 (1990). With regard to the fourth argument, appellant's prior Rule 37.1 petition was based on a claim of ineffective assistance of counsel, and a *habeas corpus* proceeding is not a substitute for raising all claims of ineffective assistance of counsel in a timely Rule 37.1 petition. *Taylor v. State*, 354 Ark. 450, 125 S.W.3d 174 (2003); *Meny*, *supra*. Appellant has failed to state a proper basis to issue a petition for writ of *habeas corpus*.

We do not reverse a denial of postconviction relief unless the trial court's findings are clearly erroneous or clearly against the preponderance of the evidence. *Greene v. State*, 356 Ark. 59, 146 S.W.3d 871 (2004). In dismissing appellant's *habeas* petition, the trial court held that appellant failed to demonstrate that the trial court lacked jurisdiction over his case or that the commitment is invalid on its face. We do not find that the trial court erred in dismissing appellant's *pro se* petition for writ of *habeas corpus*.

Affirmed.